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09/687,691	10/13/2000	Anthony J. Baerlocher	0112300/483	7698

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EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/687,691

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: Page 8, lines 11 & 12 read in part, “although it should be application includes but is not to a payline.” This appears to be garbled.

Appropriate correction is required.

2. The disclosure is objected to because of the following informalities: The specification states that the terms “component”, “payline”, and wager component” are synonymous. (Page 8, lines 9-12) Yet the disclosure, and especially the claims, use the terms in such a way that the terms do not appear to be synonyms. For instance, in claim 6, the phrase “a plurality of components which include a plurality of paylines”, appears. If these terms are truly synonyms, then the phrase could be read, “a plurality of components which include a plurality of components”. This obviously does not make sense. Appropriate correction is required.

Much of the prior art uses the term “component” to describe a bet broken into portions – i.e., one part for the base game and one part for the bonus game. The current application does not seem to use “component” in that sense. In this application, the terms “component”, “payline” and “wager component” appear to be analogous to a lottery ticket. Thus betting on five paylines would be analogous to buying five lottery tickets -- as would betting five coins on one payline. This is the interpretation the Examiner will place on the terms throughout this office action.

***Claim Objections***

3. Claim 6 is objected to because of the following informalities: Claim 6 includes the limitation, “a plurality of components which include a plurality of paylines”. Yet the specification (page 12, 10-11) states that the terms “component” and “payline” are synonymous. This makes the claim language redundant. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6, 12-18, 21, 22 & 24-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (*Slot Machines*, Liberty Belle Books).

**Claims 1 & 18:** On page 19, Fey shows a Klondyke slot machine from 1897. The Klondyke has a controller with means for determining the amount of a player's wager including any component of the player's wager. (Wagers of potentially different amounts on each payline were dropped through different slots.) There is a display device (the center wheel) connected to the controller. When the player pulled the handle after depositing the bet, the wheel spun – this is a game adapted to be displayed to the player on the display device.

The game has odds of winning maintained by the controller and the odds change whenever the components of the wager change. A player could bet up to six coins. Each

coin corresponds to a color on the wheel. If the player bet one coin, the odds were lower than if the player bet more coins.

Since it may be difficult for the Applicant to determine exactly how the game is played with only a black-and-white picture, a detailed explanation may be of assistance. The Klondyke game contains a wheel divided into 30 regions of six different colors. One region is colored yellow. Two are colored blue. Four are colored white. Five are colored green. Eight are colored red. And ten are colored black. The player could bet money on any combination of those colors – including all of the colors.

As can readily be seen, the odds change when the component of the bet changes. For instance, a bet on yellow has a  $1/30$  chance to receive a payout since only one region of the thirty is covered. But a bet on yellow and blue has a  $1/10$  chance to receive a payout because three regions are covered. While a six-coin bet on all colors is guaranteed a payout since all thirty regions are covered.

As noted above, the Klondyke has a controller. The controller is, however, mechanical. Microprocessor controllers are well known to the art. Fey teaches that the microprocessor controllers have fewer moving parts than mechanical controllers (page 210). This makes microprocessor controllers easier to maintain than mechanical controllers. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a microprocessor controller in order to have fewer moving parts, thus making the machine easier to maintain.

**Claim 2:** The odds of winning increase as the amount of any component of the wager increases. The more coins wagered, the greater the chance of winning.

**Claims 3, 6, 24, 25, 26 & 27:** The Klondyke machine teaches the invention substantially as claimed. The Klondyke machine in effect, has multiple paylines (each color is a “payline”) and the odds of winning a payout increase when the player increases the amount wagered on each payline. The Klondyke machine has six paylines represented by the colors yellow, blue, white, red, green and black. Increasing the bet (from zero coins to one coin) on any payline increases the odds that the player will receive a payout. The player may bet different amounts on the paylines – for instance, the player can bet a coin on the white payline and none on the yellow. The Klondyke machine has, however, but one wheel. Machines with multiple wheels or reels are well known to the art. Fey, on page 43, discloses an 1899 Liberty Bell slot machine with three reels. Multiple reels have a greater visual appeal than a single wheel and allow the machine to build suspense since the wheels can be made to stop sequentially. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used multiple reels in order to increase the visual appeal and to heighten the suspense felt by the player.

**Claims 12, 15 & 16:** The Klondyke teaches a gaming machine. A player wagering the smallest machine allowable amount has a chance to win the maximum payout or jackpot. This maximum payout is fixed at 12 drinks. A person wagering the smallest machine allowable amount has the lowest probability of winning the jackpot.

**Claim 13 & 14:** The Klondyke (as with all gaming machines) has a payout percentage for all wagers. This percentage increases as the wager increases.

**Claim 17:** The Klondyke teaches the invention substantially as claimed. The Klondyke does not, however, have a progressive jackpot. Progressive jackpots are extremely well

known in the art. These jackpots can grow to significant sizes and tend to attract more customers. Fey teaches a Megabucks progressive jackpot gaming system (page 213). It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a progressive jackpot so that the jackpot could grow to significant sizes and attract more customers.

**Claims 21 & 22:** The Klondyke game includes the production of a plurality of symbols (different colors) on the wheel and the award is dependent on the production on a predetermined symbol (color) on a payline. The winning symbol (color) is dependent on the number of wagered paylines and the amount wagered on the paylines. (The number of paylines is equivalent to the amount wagered on the paylines since only one coin may be wagered on any paylines. This equivalence coincides with the equivalence assigned to these concepts in the Applicant's specification on page 8.) Thus if the player wagers only on the white payline, having the arrow stop on green is a losing outcome. But if the player wagers on both white and green, having the arrow stop on either color would be a winning outcome.

**Claim 28:** The Klondyke game includes the production of a plurality of symbols (different colors) on the wheel and the award is dependent on the production of a predetermined symbol (color) on a payline. The winning symbol (color) is dependent on the number of wagered paylines and the amount wagered on the paylines. (The number of paylines is equivalent to the amount wagered on the paylines since only one coin may be wagered on any paylines. This equivalence coincides with the equivalence assigned to these concepts in the Applicant's specification.) Thus if the player wagers only on the

Art Unit: 3714

white payline, having the arrow stop on green is a losing outcome. But if the player wagers on both white and green, having the arrow stop on either color would be a winning outcome.

6. Claims 4, 5, 8, 9, 10, 11 & 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Fey as applied to claims 3, 6, or 18 above, in view of Travis et al. (US patent Number 5,380,007).

**Claims 4, 8, 10 & 19:** Fey teaches the invention substantially as claimed. Fey does not, however, specifically teach making a number of attempts at randomly producing the award depending on the amount wagered on the payline or the number of paylines wagered upon. Doing so is the same as treating each amount wagered as a separate game or separate lottery ticket (see discussion of interpretation of "payline" above). Travis teaches accepting a bet on a lottery game and automatically replaying the game for a number of times to reflect the initial amount bet. (Col 4, 41-56) Thus if a player deposits a bet of \$1.00 and the minimum bet is 25¢, then the game will be played four times. This gives the player the impression that he is getting more for his money because instead of one spin, there are four. This would tend to increase player satisfaction. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made a number of attempts at randomly producing the award depending on the amount wagered on the pay line in order to give players the impression that they are getting more for their money, thus increasing player satisfaction.

**Claims 5, 9 & 11:** The odds constant that affects the number of spins or the chance of winning with the Klondyke machine is 1. The use of methods to generate the desired



Art Unit: 3714

odds are well known in the art – the art primarily consists of this study. Only when the odds are in the desired range can a casino remain profitable. It would have been obvious to one of ordinary skill in the art to have used an odds constant to affect the odds of winning in order to generate the desired odds necessary to maintain profitability.

7. Claims 7, 23, 29 & 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey as applied to claim 6, 18 or 25 above, in view of Wurz et al. (US Patent Number 6,334,612).

**Claims 7, 23 & 29:** Fey teaches the invention substantially as claimed. Fey does not, however, teach a bonus round triggered by a bonus condition in which the player can win an award. Such bonus rounds are well known in the art. They provide excitement to the player. Wurz teaches a gaming machine with a bonus round triggered by a bonus condition in which the player can win an award. (Col 4, 61-67) It would have been obvious to one of ordinary skill in the art at the time of the invention to have a bonus round triggered by a bonus condition in which the player can win an award in order to provide excitement to the player.

**Claims 30, 32 & 34:** The odds constant that affects the chance of winning with the Klondyke machine is 1. The use of methods to generate the desired odds are well known in the art – the art primarily consists of this study. Only when the odds are in the desired range can a casino remain profitable. This would include odds within the bonus round. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an odds constant to determine the chance of winning a payout, triggering the bonus game, or the number of spins in the base or bonus game to affect the odds of winning in order to generate the desired odds necessary to maintain profitability.

**Claims 31 & 33:** Fey teaches the invention substantially as claimed. The predetermined probability of winning on a Klondyke machine is dependent on the amount wagered on the paylines. As pointed out above, bonus rounds are common in the art. The bonus round often consists of playing the same type of game as the base game. This allows a casino to have a bonus game without having to buy a machine with additional hardware. This reduces costs. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made the predetermined probability of triggering the bonus round and the probability of winning the bonus round dependent on the amount wagered on the paylines in order to have the bonus round match the underlying game, thus reducing costs by allowing a casino to have a bonus game without having to buy a machine with additional hardware.

***Examiner's Note***

8. As written, the claims appear to be much broader than the invention described in the specification. Furthermore, it is not clear how this invention differs from existing slot machines. The notion that buying five "components" get the player five spins appears to be no different than a player buying one component, five times in a row.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These are other games.

Reference Name	US Patent Number	Applicability
Mayeroff	6,224,483	Spins determined by number of paylines bet and amount bet on each payline
Wood	5,286,023	Video lottery
Miller	6,322,445	Video lottery with multiple paylines

Art Unit: 3714

Kaye	5,709,603	Video lottery with slot machine embodiment
Big Game Lottery	N/A	Disclosure says increase odds by buying more tickets
Tracy	5,116,055	Payout percentage equal no matter what denomination bet
Walker	6,244,957	Slot machine can be programmed to automatically give multiple spins

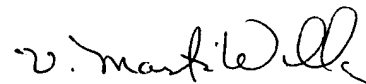
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary Examiner, Jessica Harrison can be reached on (703) 308-2217. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc  
July 25, 2002



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